

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #2	CCRB Case #: 201506393	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 07/12/2015 9:14 PM	Location of Incident: § 87(2)(b)	Precinct: 101	18 Mo. SOL 1/12/2017	EO SOL 1/12/2017	
Date/Time CV Reported Sat, 08/01/2015 12:43 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/03/2015 12:43 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Timothy Brovakos	01062	943025	PBQ/S

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Denicola	13663	955868	PBQ/S

Officer(s)	Allegation	Investigator Recommendation
A.SGT Timothy Brovakos	Force: Sgt. Timothy Brovakos used physical force against § 87(2)(b)	§ 87(2)(b)
B.SGT Timothy Brovakos	Abuse: Sgt. Timothy Brovakos entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)

Case Summary

On July 13, 2015, this complaint was generated by IAB after Sgt. Timothy Brovakos reported an injury to § 87(2)(b) during his arrest on July 12, 2015. On August 3, 2015, this complaint was received at the CCRB. On July 12, 2015, at approximately 9:14 p.m., Sgt. Timothy Brovakos and PO Brian Denicola Patrol Borough Queens South attempted to arrest § 87(2)(b) for burglary after observing him exit a gated construction site converting a decommissioned firehouse into the Rockaway Waterfront Alliance community center located at 58-03 Rockaway Beach Boulevard in Far Rockaway Queens. Though § 87(2)(b) denied that he had burglarized the community center and denied that he was fleeing, video evidence (**BR3**) showed that § 87(2)(b) fled from the officers on bicycle to his home located approximately half a block away at § 87(2)(b) § 87(2)(g) § 87(2)(b) ultimately alleged that as he was near the front of his house, he was told to stop by Sgt. Brovakos and PO Denicola. § 87(2)(b) complied and raised his hands. Sgt. Brovakos then allegedly punched § 87(2)(b) in the face, causing a laceration under § 87(2)(b) § 87(2)(b) s right eye (**Allegation A**). Believing he was free to leave, § 87(2)(b) then entered his house. Sgt. Brovakos allegedly entered into the vestibule of § 87(2)(b) s house (**Allegation B**) and ordered § 87(2)(b) to put his hands up again. § 87(2)(b) complied and Sgt. Brovakos allegedly punched him in the face again (**Allegation A**), causing another small laceration near the first laceration. § 87(2)(b) was handcuffed and escorted out of the house, before being transported to the 101st Precinct stationhouse. § 87(2)(b) was treated at § 87(2)(b) § 87(2)(b) for the lacerations on his face. § 87(2)(b) was arrested for § 87(2)(b) § 87(2)(b) (**BR1**). § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] (b)]

Mediation, Civil and Criminal Histories

- This case could not be mediated due to § 87(2)(b) s arrest.
- On October 21, 2015, an enquiry was submitted to the Office of the New York City Comptroller for any notices of claim filed for this incident, and the results will be added to the case file upon their receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first and only CCRB complaint involving § 87(2)(b) (**BR4**).
- Sgt. Timothy Brovakos has been a member of the service for eight years and has had a total of 11 complaints involving 24 allegations filed against him. In CCRB case number 201500206, an allegation of improper vehicle search was substantiated. The board recommended Command Discipline B against him. The NYPD disposition is unknown.

Findings and Recommendations

Allegations not pleaded

- [REDACTED] § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Allegation A – Force: Sgt. Timothy Brovakos used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) was initially consistent with his phone statement (BR6), in which he claimed that he was stopped by Sgt. Brovakos and PO Denicola outside of his house, punched in the face by Sgt. Brovakos, and arrested without entering his house. However, § 87(2)(b) then changed his story and stated that he was stopped, but was not punched while outside his house. After officers confiscated the bicycle, he believed that he was free to leave and was allowed to enter his house. Without any warning or apparent reason, Sgt. Brovakos allegedly entered his house and ordered § 87(2)(b) to put his hands in the air. § 87(2)(b) complied, and Sgt. Brovakos allegedly punched him in the face and arrested him inside his house. § 87(2)(b) then provided yet another account, which was a combination of the two prior accounts, alleging that he was stopped and punched in the face while in front of his house by Sgt. Brovakos, causing one small laceration under his right eye. § 87(2)(b) then entered inside his house in fear for his life. Sgt. Brovakos allegedly then entered the house and punched him again in the face, causing a second laceration in the same location as the first. § 87(2)(b) claimed that several unidentified people approached him after the incident stating they had taken video of his arrest. Despite numerous requests and follow up calls by the undersigned, § 87(2)(b) did not identify these individuals or provide any means of contacting them.

The medical records from § 87(2)(b) indicate that § 87(2)(b) sustained two small linear lacerations that were 0.5 cm in length underneath his right eye. It was noted that there was no significant soft tissue swelling around the wound. § 87(2)(b)'s wounds were cleaned, a topical anesthetic was applied and two sutures were used to close the wounds (see **Privileged Documents**).

Sgt. Brovakos stated that he and PO Denicola attempted to arrest § 87(2)(b) for burglary after observing him exit from a construction site with a bolt-cutter and two bicycles. Sgt. Brovakos pursued § 87(2)(b) into his house, reaching the front door seconds after § 87(2)(b) closed it. Sgt. Brovakos denied that he stopped § 87(2)(b) outside of the house and denied that he punched § 87(2)(b). Sgt. Brovakos entered into the hallway immediately inside of the front door, with only ambient light from the streetlights outside for illumination. Sgt. Brovakos called out approximately twelve times for § 87(2)(b) to show himself. Sgt. Brovakos then saw § 87(2)(b) hiding behind the front door he had just opened. Sgt. Brovakos ordered § 87(2)(b) to step out from behind the door, but § 87(2)(b) failed to comply. Sgt. Brovakos then looked behind the door and saw § 87(2)(b) holding a large steel bolt cutter. Sgt. Brovakos grabbed § 87(2)(b)'s hands, turned § 87(2)(b)'s body to face the wall and attempted to handcuff him. § 87(2)(b) pushed back against Sgt. Brovakos, bending at the hip and pushing against the wall with his upper torso, which is when Sgt. Brovakos believed that § 87(2)(b) sustained the

laceration to his face. Sgt. Brovakos did not see what caused the laceration to § 87(2)(b)'s face. PO Denicola arrived inside the doorway and together with Sgt. Brovakos they successfully handcuffed § 87(2)(b) and brought him outside. Sgt. Brovakos then saw the laceration on § 87(2)(b)'s face and called for medical attention. Later that night Sgt. Brovakos notified IAB of § 87(2)(b)'s injury. Sgt. Brovakos's CCRB statement was consistent with the brief account he provided to IAB during that phone call. Sgt. Brovakos denied that he punched § 87(2)(b) at any point (BR7).

The camera footage from a security camera in the § 87(2)(b) located across the street from § 87(2)(b)'s house refuted § 87(2)(b)'s narratives of this incident, and is consistent with Sgt. Brovakos's (See BR3 for transcript of video). The video showed that § 87(2)(b) fled from the officers on a bicycle before attempting to hide from the officers behind parked cars. § 87(2)(b) then ran inside his house with Sgt. Brovakos following behind in pursuit. The video showed that Sgt. Brovakos did not catch up to § 87(2)(b) outside of his house, nor did he punch § 87(2)(b) while in front of his house as § 87(2)(b) alleged. PO Denicola entered the house approximately 23 seconds after Sgt. Brovakos, and they both escorted § 87(2)(b) out in handcuffs approximately one minute later. An ambulance was then called to the scene.



201506393_20151026_1543_DM.mp4

§ 87(2)(g)
The video showed that § 87(2)(b) ran inside of his house without any physical contact with any police officer. § 87(2)(g)
§ 87(2)(b)
The medical records indicated that § 87(2)(b) sustained two linear lacerations of 0.5 cm in length without any significant soft-tissue swelling, § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation B – Abuse: Sgt. Timothy Brovakos entered and searched § 87(2)(b) in Queens.

§ 87(2)(g)
In his phone statement (BR6), § 87(2)(b) stated that on that evening, he encountered an unidentified young man on a street corner who offered to sell him a bicycle for \$40. § 87(2)(b) purchased the bicycle and rode it home. He was stopped in front of his house by Sgt. Brovakos and PO Denicola, who claimed that he was in possession of a stolen bicycle and arrested him. § 87(2)(b) made no mention of any officer entering his home during his phone statement. § 87(2)(b) He initially stated

that while he was in front of an old firehouse in the process of being converted into a community center located at 58-03 Rockaway Beach Boulevard, an unidentified young man whom § 87(2)(b) did not know informed him that the community center was offering bicycles for members of the community to borrow free of charge. § 87(2)(b) decided to borrow one of the bicycles and ride it home. § 87(2)(b) later changed his story and stated that the bicycle was next to a dumpster and appeared to be discarded, so he decided to take the bicycle home and repair it. In yet another account during the same CCRB interview, § 87(2)(b) stated that he believed that the bicycles were discarded, but he offered the unidentified young man \$20 to help him remove one of the bicycles from the trash. § 87(2)(b) denied that he was carrying a backpack or that he had a bolt-cutter in his possession. § 87(2)(b) claimed that he rode the bicycle home without incident and was stopped by Sgt. Brovakos and PO Denicola while he was in front of his house because they suspected he had a stolen bicycle. § 87(2)(b) denied he was fleeing from the officers and stated that he was not ordered to stop as he entered his house. He alleged that Sgt. Brovakos entered his house through the front door without any prior warning and arrested him inside the hallway near the front door.

Sgt. Brovakos stated that he and PO Denicola witnessed § 87(2)(b) exiting the construction site at 58-03 Rockaway Beach Boulevard, which was a decommissioned firehouse, with two bicycles and a backpack with a large bolt cutter protruding from it. Sgt. Brovakos stated that the construction site was closed off with a gated chain-link fence and clearly marked as off-limits to the public. Sgt. Brovakos was very familiar with the location because he has patrolled there for the past two years. Sgt. Brovakos's observation of § 87(2)(b) exiting the gated fence with bolt-cutters led him to believe § 87(2)(b) had just burglarized the location. With the intention of arresting § 87(2)(b) he and PO Denicola exited their vehicle and ordered him to stop. § 87(2)(b) dropped one of the bicycles and rode away on the other bicycle westbound on Rockaway Beach Boulevard before turning southbound on Beach 59th Street. Sgt. Brovakos mounted the abandoned bicycle and rode after § 87(2)(b) in pursuit while PO Denicola pursued in the patrol car. Once they turned onto Beach 59th Street, they lost sight of § 87(2)(b) momentarily. PO Denicola drove south down the block while Sgt. Brovakos stayed at the intersection. After PO Denicola drove past, Sgt. Brovakos saw § 87(2)(b) emerge from behind a parked car and run inside his house at § 87(2)(b) § 87(2)(b). Sgt. Brovakos reached the front door of the house seconds behind § 87(2)(b) and entered the house in hot pursuit. § 87(2)(b) was arrested in the hallway directly inside of the front door (BR7).

Although there was no video footage from the construction site where Sgt. Brovakos first encountered § 87(2)(b) the video showed that § 87(2)(b) rode a bicycle at high speed southbound on Beach 59th Street. § 87(2)(b) abandoned the bicycle behind a parked car before running back north. As PO Denicola drove southbound in a marked patrol car with emergency lights active, § 87(2)(b) ducked down behind a parked car. After PO Denicola drove past, § 87(2)(b) stood up and ran inside his house. § 87(2)(b) could be seen carrying a large black bag. Sgt. Brovakos, arrived on a bicycle across the street from § 87(2)(b)'s house just as § 87(2)(b) approached his house. Sgt. Brovakos ran across the street while apparently using his radio and reached the front door seconds behind § 87(2)(b). Sgt. Brovakos appeared to be able to open the door and enter it immediately (See BR3 for transcription of video and above for embedded video file 201506393_201510261543_DM.mp4).

The courts have established that warrantless entries into private homes are presumed unconstitutional. Exceptions to this rule include consent, exigent circumstances, emergencies, and hot pursuit. The courts have held that in order for the hot pursuit exception to apply, officers must have probable cause to arrest an individual while he or she is outside the private location to be entered and the arrest must have been set in motion in a public place, prior to the individual's flight into the private location. People v. Hunter, 92 A.D. 3d 1277 (4th Dept. 2012). (**BR8**)

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Squad: 2

Investigator: _____ Simon Wang _____ 10/26/15
Signature Print Date

Pod Leader: _____ _____ _____
Title/Signature Print Date

Attorney: _____ _____ _____
Title/Signature Print Date